

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SEQUENOM, INC.
Petitioner

v.

THE BOARD OF TRUSTEES OF
THE LELAND STANFORD JUNIOR UNIVERSITY
Patent Owner

Case IPR2013-00390
Patent 8,195,415

AFFIDAVIT OF MICHAEL J. MALECEK

SEQUENOM EXHIBIT 1012

1. I, Michael J. Malecek, am more than twenty-one years of age, am competent to present this affidavit, and have personal knowledge of the facts set forth herein.

2. This affidavit is given in support of Petitioner Sequenom, Inc.'s Motion for *Pro Hac Vice* Admission of Michael J. Malecek.

3. I am a partner at the law firm of Kaye Scholer LLP. I am an experienced litigation attorney and have been a litigation attorney for more than twenty years.

4. I have been litigating patent cases for over eleven years.

5. I am a member in good standing of the State Bar of California.

6. I have never been suspended or disbarred from practice before any court or administrative body.

7. No court or administrative body has ever denied my application for admission to practice before it.

8. No court or administrative body has ever imposed sanctions or contempt citations on me.

9. I have read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of the Code of Federal Regulations.

10. I understand that I will be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§ 10.20 et seq. and disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

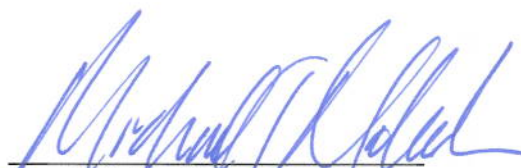
11. I was admitted *pro hac vice* by the Board in Case IPR2012-00022 (MPT) to represent the Patent Owner as back-up counsel in that proceeding.

12. I have an established familiarity with the subject matter at issue in this proceeding. I have litigated patent cases in the area of nucleic acid analysis since 2002, including several cases about “next generation” sequencing technologies. I began representing and advising real party in interest Sequenom, Inc. (“Sequenom”) in matters relating to U.S. Patent No. 8,195,415 (“the ’415 patent”) no later than June 2012. Since that time, I have become very familiar with the ’415 patent and with its prosecution file history.


13. I am lead trial counsel for Sequenom in its co-pending district court litigation against the Patent Owner and its licensee *Verinata Health, Inc.* That litigation is captioned *Verinata Health, Inc., et al. v. Sequenom, Inc., et al.*, Case No. 12-cv-00865 (SI) (N.D. Cal.), and involves the same patent at issue in this proceeding. As lead trial counsel for Sequenom, I have been actively involved in all aspects of the co-pending district court litigation. As examples of my work as lead trial counsel, I have presented a technology tutorial and argued claim construction regarding the ’415 patent before the District Court in 2013.

14. In addition, I am lead trial counsel for Sequenom in two other pending district court cases involving related technology claimed in U.S. Patent No. 6,258,540 (“the ’540 patent”): *Ariosa Diagnostics, Inc. v. Sequenom, Inc. et al.*,

Civ. No. 11-06391-SI (N.D. Cal.); and *Natera, Inc. v. Sequenom, Inc. et al.*, Civ. No. 12-00132-SI (N.D. Cal.). Further, in January 2013, I argued on behalf of Sequenom in an appeal before the Court of Appeals for the Federal Circuit relating to the validity and proper claim construction of the '540 patent in *Aria Diagnostics, Inc. v. Sequenom, Inc.*, Appeal No. 12-1531.


Michael J. Malecek

Sworn to and subscribed before me
this 3rd day of January, 2014.


Notary Public

MELISSA F. BURTON
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires January 31, 2015

